IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

Crl.MC.No. 3616 of 2007()

C.C.NO.1070 OF 2007 OF ADDL.CHIEF JUDICIAL MAGISTRATE,ERNAKULAM

PETITIONER: ACCUSED

P.SAITHU, S/O.VEERAN,
PADINJATTIL VEEDU, 5/220, VADAKKEMADOM COLONY,
POTHOKKIPUZHA ROAD, KUMARAMPUTHOOR,
MANNARKKAD, PALAKKAD DISTRICT.

BY ADV. SRI.K.RAMAKUMAR (SR.)

RESPONDENTS: COMPLAINANT AND STATE

---

1. THE SUB INSPECTOR OF POLICE,
CENTRAL POLICE STATION, KOCHI CITY,
(CRIME NO.495 OF 2007).

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3616 of 2007

Dated this the 3rd day of December, 2007

O R D E R

Petitioner is aggrieved by the condition imposed by the learned Magistrate **when he was released on bail. The** petitioner faces allegations under Section 420 I.P.C. He **was directed to execute a bond for Rs.1 lakh with 2 solvent sureties. In addition, he was directed to deposit an amount of Rs.1 lakh as security as a condition for bail by 5 p.m on the date on which he appeared before the** learned Magistrate**.**

2. The petitioner had earlier come to this Court with a prayer that directions under Section 482 Cr.P.C may be issued in his favour as he apprehends that his application for regular bail may not be considered expeditiously. Directions were issued as per order dated 29.10.07 in Crl.M.C.3302 of 2007. Inter alia, it was directed that the warrant of arrest issued against the petitioner **should not be executed till the next date of posting, ie. 5.11.07 and that the petitioner's application for bail must be considered on merits and appropriate**

orders passed on the date of surrender itself. It is when the petitioner so appeared that the impugned order was passed directing the petitioner **to execute a bond for Rs.1 lakh and also to deposit an amount of Rs.1 lakh before 5 p.m on that date.**

3. The learned counsel for the petitioner **laments that the condition imposed is extremely onerous and unjustified. The** petitioner **had to straightaway ensure that an amount of Rs.1 lakh was raised by 5 p.m, failing which he would have been forced to face the predicament of being detained in prison until such time his relatives were able to raise the said amount of Rs.1 lakh.**

4. I must express my disapproval of courts insisting on cash deposit as a condition for bail ordinarily. Except in an exceptional case where there are compelling reasons, such a direction ought not to be issued by any court. Execution of the bond in this case for a higher amount was perfectly sufficient to grant bail to the petitioner.

5. This Crl.M.C is accordingly allowed. The condition that the petitioner must deposit and amount of Rs.1 lakh as security is set aside. There shall be a direction to the learned Magistrate **to release the said amount of Rs.1 lakh to the petitioner forthwith.**

(R.BASANT, JUDGE)

rtr/-